Remarks

In the interest of clarity, the paragraph numbers hereafter match the paragraph numbers in the Office Action.

Applicant has amended the detailed description of the present application to correct a minor inadvertent error in paragraph 0296.

3-4.   The Office Action rejected each of claims 1 and 194-198, 200-201, 212, 213, 217, 219 and 220-222 as anticipated by Gombrich (US patent No. 4,857,716). Applicant has amended claim 1 to now require some of the limitations in original claim 3 so that claim 1 now requires that the controller use the obtained network address of the medical device to communicate with the medical device.

Gombrich fails to teach or suggest any of (1) providing a medical device network address for a medical device, (2) obtaining the medical device network address using a data collector, (3) transferring that address to a controller and then (4) having the controller communicate with the medical device using the transferred address, all limitations required by claim 1.

With respect to the device network address required by claim 1, the Office Action cites various sections of Gombrich as teaching a device network address. Applicant strongly disagrees with the characterizations of the network address in the Office Action. Specifically, the Office Action indicates that the Examiner considers a "radio frequency bar code" to be a network address because the present specification (paragraph 0041) teaches that a pump identifier can be an RF address or frequency.

In claim 1 the phrase "network address" is used to refer to a specific logical location on a communication network at which the associated medical device resides so that when data is transmitted to the address, the data can be received by the associated medical device. This address may be communicated in two ways, via an actual address represented by data in a transmission or by transmitting a signal at a frequency that is unique within the communication network to the associated medical device (as indicated in paragraph 0041 of the present specification).

Gombrich teaches that a bar code reader can be use to obtain information from a medication vial or the like and that the obtained information can be transferred to a server or the like. Gombrich teaches that, in at least some embodiments, the obtained information can be transferred via an RF frequency signal (see Gombrich col. 10, lines 1-4). Gombrich's RF signal is simply the medium by which the obtained information is transmitted and has <u>nothing</u> to do with uniquely identifying the vial or device from which the information was obtained. In addition, nothing in Gombrich teaches or even remotely suggested that the obtained information may include a network address for the vial or device from which the information was obtained. Instead, the obtained information may include information regarding the type of medication in the vial, the patient for whom the medication has been dispensed, etc.

Thus, Gombrich clearly fails to teach or suggest that a network address is provided for a medical device in a communication network.

While Gombrich teaches a data collector, Gombrich's data collector is not used to obtain a network address associated with a medical device. Again, as described above, Gombrich's collector simply collects data about a medicant or a patient where that type of information is clearly not akin to a network address as required by claim 1. Because Gombrich fails to teach or suggest obtaining a network address, Gombrich not surprisingly also fails to contemplate transferring the device address from the data collector to a controller.

The sections of Gombrich cited as teaching transmission of a network address to a computer system simply do <u>not</u> perform this function. Specifically col. 15, lines 9-18 teaches that a nurse may collect patient ID and medicant type information form a patient bracelet or the like and a vial or the like and transmit that patient and medicant identifying information to a computer. Patient and medicant identifying information clearly is not akin to a network address. For example, a computer could not communicate with a medical vial using a generic medicant identifier. Similarly, Gombrich does not teach or suggest that a patient bracelet or the like can be communicated with via a patient identifier (i.e., Gombrich's patient identifier can only be

read and is <u>never</u> used to facilitate communication with an associated device (i.e., an associated patient bracelet)).

Gombrich does not contemplate associating a medical device with a controller so that the controller can communicate with the medical device as required by claim 1. The sections of Gombrich cited as teaching this requirement simply teach that a data collector can be used to collect patient and medicant identifying information from a bracelet and a vial or the like and to transfer that information to a computer for further processing. There is no process whereby, after the controller receives the transmitted data, the controller is associated with the patient bracelet or the vial for communication therewith.

Finally, Gombrich fails to teach or suggest that, after the associating step, a computer associated with a medical device uses the network address obtained to communicate with the medical device as required by amended claim 1 (and as required by original claim 3). As discussed above Gombrich clearly fails to teach that a computer communicates with a bracelet or a medicant vial. To this end, Gombrich's col. 15, lines 9-48 do not even remotely suggest that a computer communicates with the devices (i.e., the bracelet, vial) from which the data collector obtains information. <u>In the event that the Examiner maintains rejection of claim 1 Applicant requests that the Examiner clearly point out the language in column 15 that teaches communication to a device from which information is obtained using the data collector.</u>

With respect to claim 194, claim 194 requires a comparison of two data collection times and performing a health safety function when the duration between the two times exceeds a threshold period. The purpose of the data collection time comparison is to avoid administering medicant to a wrong patient. For example, if patient identifying information is obtained at a first time form a first patient's bracelet and medicant and nurse identifying information is obtained one hour later, it is very possible that the nurse has moved on and may be proximate a second patient that is not associated with the patient identifying information previously obtained so that the medicant could be inadvertently administered to the wrong patient (i.e., to the second patient instead of the first patient). In addition, the two collected times in claim 194

have to include one of the time at which a device network address is collected, the time at which medication information is obtained and the time at which patient information is obtained.

In contrast, Gombrich's columns 15 and 16 teach two different types of alerting activities, neither of which compares the times at which data is obtained. First, at col. 16, starting at line 28, Gombrich teaches that, if a drug is not administered and is overdue, a print out of overdue drugs is generated as a reminder for the nurse. Second, at col. 16, starting at line 43, Gombrich teaches that when a nurse transmits information related to any drug administration activity, information regarding any overdue drugs may be sent to the nurse via a portable bar code reading device to alert the nurse to missed administration. In the case of either of Gombrich's two types of alerting activities a prescribed administration time is compared to a current time and overdue administration is reported when the current time is after a prescribed drug administration time and the drug has not been administered. Neither the prescribed nor the current times are times that are "obtained". Instead, the prescribed time, as the label implies, is prescribed by a pharmacist or the like and the current time is simply derived from a computer clock or the like. Moreover, neither the prescribed time nor the current time correspond to the times at which a network address is obtained, the time at which medication information is obtained or the time at which patient information is obtained, all times that are required by claim 194.

For at least this additional reason Applicant believes claim 194 and claims that depend there from are novel over Gombrich.

5-10. The Office Action rejected the balance of the claims as obvious over Gombrich in view of the Examiner's official notice and various other references. Because the claim 1 amendments overcome the rejections as described above

Applicant believes that each of the dependent claims in this application are in condition for allowance for at least the reasons described above with respect to claim 1.

Applicant has added new claims 223 through 232. Independent claims 223 and 230 are similar to claim 194, albeit having less than all of the limitations from claim 1. Applicant believes that each of independent claims 223 and 230 is novel and non-obvious for the reasons discussed above with respect to claim 194. Claim 232 is similar to claim 1, albeit where a first communication between a device and a controller may be in either direction.

Applicant has introduced no new matter in making the above remarks and amendments. In view of the above remarks and amendments, Applicant believes claims 1-24, 193-217 and 219 through 232 of the present application recite patentable subject matter and allowance of the same is requested. No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment, however, if an additional fee is required, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

Date: 5-23-08
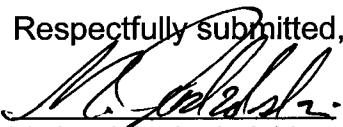
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